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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,499	12/19/2000	Stephen L. Phelps	KCX-410 (14779)	5722

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EXAMINER

GOODMAN, CHARLES

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 07/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/741,499

Applicant(s)

PHELPS ET AL

Examiner

Charles Goodman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: .

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: “68” (p. 7, l. 9). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “eccentric device” (claims 10 and 18) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The disclosure is objected to because of the following informalities:
  - i. P. 7, l. 7, the phrase “web material 12” is not clearly understood. Reference “12” has been used to designate the primary roll. Thus, which is which? In l. 20, the phrase ““rough” or frictional surface 40” is not clearly understood. The texture of the surface is not commensurate in scope to

that of just the surface. Thus, which is which? Consistent terminology for the same feature should be maintained throughout the specification.

- ii. In p. 8, l. 16, the phrase “eccentric spring” is not clearly understood. How is the spring 66 “eccentric”? The same applies to the rest of the specification.
- iii. P. 9, l. 19, the phrase “cutting blade 44” is not clearly understood. In l. 13, reference “50” has been used to designate a “knife or blade”. Thus, which is which?

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- i. The following phrases lack clear antecedent basis: (claim 1) “the conveying path” and “the rotational arc”; (claim 4) “the circumference”; (claim 9) “the same rotational position”; (claim 11) “the rotational arc”.
- ii. In claim 3, l. 3, the phrase “said roll” is vague and indefinite in that it is not clear which “roll” the phrase is referring to, i.e. the roll of material or the

cutting mechanism roll. Substantially the same applies to the rest of the claims.

- iii. In claim 4, the term “its” is vague and indefinite. What is “its” referring to? Substantially the same applies to all instances of the term in the claims.
- iv. In claim 5, the phrase “a rotational arc portion” is vague and indefinite in that it appears to be a double inclusion of the same previously recited.
- v. In claim 9, l. 4, the phrase “rotational drum” should read -- rotatable drum -- to maintain consistent terminology for the same feature and thereby avoid any possible confusion.
- vi. Claim 10 is vague and indefinite in that it is not clear what the claim encompasses. What is the “eccentric device” referring to, and where is the support for this feature in the disclosure? Moreover, what is the “spring biased” referring to, and is this different than the previously recited “biased” aspect of the drum? Substantially the same applies to claim 18. If not, then perhaps the claim should be clear that the “spring” is a further limitation of the “bias” in claim 1.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. As best understood, claims 1-5, 10-13, and 16-18 are rejected under 35

U.S.C. 102(b) as being clearly anticipated by Shelley '331. See whole patent.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. As best understood, claims 6-9, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shelley '331 in view of Hawkins.

Shelley '331 discloses the invention substantially as claimed except for a plurality of cutting blades equally circumferentially spaced around the cutting mechanism roll. However, Hawkins teaches a dispenser comprising a rotatable drum (e.g. 17b, 17b) and a

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cutting mechanism (e.g. at 12b in Fig. 4) wherein the cutting mechanism comprises a roll (12b) having a plurality of cutting blades (20) equally circumferentially spaced around the cutting mechanism roll for the purpose of providing more cuts on the web (T) to be cut per single rotation of the cutting mechanism roll with the cutting action being facilitated by the engagement of a lever arm (36) with one of the plurality of circumferentially spaced cam members (43) disposed between adjacent cutting blades.

Fig. 4; c. 2, l. 40 - c. 3, l. 38, c. 4, ll. 17-64. Thus, it would have been obvious to the ordinary artisan at the time of the instant invention to provide the device of Shelley '331 with the plurality of equally circumferentially spaced cutting blades as taught by Hawkins in order to provide the cutting mechanism of Shelley '331 with the ability to make more cuts per single rotation of the cutting mechanism roll.

### ***Conclusion***

11. VanAlstine, Rebekale, Lee et al, DeLuca et al '638, Granger '363, Granger et al '120, Jespersen et al, Birr et al, Shelley '299, Becker, and Jaeger are cited as pertinent art.


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Goodman whose telephone number is (703) 308-0501. The examiner can normally be reached on Monday-Thursday between 7:30 AM to 6:00 PM EST.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap, can be reached on (703) 308-1082.

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In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9302. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

  
**Charles Goodman**  
**Primary Examiner**  
**AU 3724**

cg   
June 29, 2002

**CHARLES GOODMAN**  
**PRIMARY EXAMINER**